



STATE OF CONNECTICUT

DEPARTMENT OF ENVIRONMENTAL PROTECTION



Public Hearing - February 13, 2009
Environment Committee

Testimony Submitted by Commissioner Gina McCarthy
Department of Environmental Protection

Raised Bill 567 – AN ACT LIMITING LIABILITY FOR ENVIRONMENTAL PERMIT VIOLATIONS

Thank you for this opportunity to present testimony regarding Proposed Bill No. 567 - AN ACT LIMITING LIABILITY FOR ENVIRONMENTAL PERMIT VIOLATIONS. The Department of Environmental Protection (DEP) strongly opposes this proposal that would limit DEP's ability to enforce a permit violation against any person who performs work at the direction of the permittee or against any person other than the permittee.

The Department's authority and jurisdiction over all matters related to the preservation and protection of the air, water and other natural resources of the state is compromised by this proposal. It is my duty as Commissioner of Environmental Protection to enforce against any person who violates Connecticut's environmental statutes and regulations or acts without proper authorization.

The Department needs to maintain the ability to pursue enforcement against any appropriate parties to remedy a situation – whether the parties are determined to be a permittee, land owner or contractor/operator. Limiting the responsibility to comply with environmental laws solely to a permittee holder is too narrow and restrictive. This proposal poses a serious threat to the Department's ability to prevent injury, impairment to, or interference with the public health and safety; the public trust in the water, air and other natural resources; and the reasonable use of property that may be caused or threatened by violations. The Department's obligation to assure that a violation, condition or pollution is abated, corrected or remedied is hindered by this proposal.

It is clearly a permittee's obligation to understand and abide by the terms and conditions of a permit issued by the Department; there are also duties and responsibilities held by the individuals working on behalf of the permittee. The permittee's contractor must perform the regulated activities authorized by the permit in accordance with that permit and all other environmental regulatory requirements.

Contractors are often times most familiar with regulatory requirements of the Department because they have had experience working with other permittees on similar types of project. They must be held accountable when they violate permit conditions. This approach provides a strong incentive for the contractors to verify that their clients have obtained the appropriate permits and to ensure that their work conforms to the permit's terms and conditions. Anything less, is a serious infringement upon the Department's enforcement authority that could cause adverse harm to public health and safety, the environment and our natural resources.

Thank you for the opportunity to present testimony on this proposal. If you required any additional information, please contact Robert LaFrance, the DEP legislative liaison at 424-3401.